

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 1872 – HB 1783

April 14, 2014

SUMMARY OF ORIGINAL BILL: Extends the nursing home annual assessment fee that terminates June 30, 2014 for one year to June 30, 2015.

FISCAL IMPACT OF ORIGINAL BILL:

Other Fiscal Impact – Prevents the loss of \$82,300,000 in state revenue and \$153,280,364 in federal matching funds.

Revenue recognition in the amount of \$82,300,000 is included in the Governor's proposed FY14-15 budget.

SUMMARY OF AMENDMENTS (016044, 016376, 016224, 016356):

Amendment 016044 deletes all language after the enacting clause. Creates the nursing home assessment trust fund. All funds collected by the Bureau of TennCare from the nursing home assessments, investment earnings credited to the assets of the fund, any interest and penalties paid by any nursing home, and all funds generated by federal matching payments are to remain in the nursing home assessment trust fund and be spent exclusively to provide payments to nursing homes as established by the bill as amended. Specifies that any funds remaining in the nursing home assessment trust fund after payments are made shall remain with the fund. If funds are insufficient to meet all purposes as established, the Bureau of TennCare is authorized to reduce all payments on a pro rata basis so not to exceed the amounts held in the trust fund.

Requires the Bureau of TennCare to determine the assessment rate for the applicable fiscal year on a per-resident-day basis, exclusive of Medicare resident days, and promulgate rules for facility reporting of non-Medicare resident days and for payment of the assessment. Establishes an aggregated amount of assessments for all nursing home facilities from the commencement date through June 30, 2015, of 4.5 percent of the net patient service revenue. The initial monthly installment is due 60 days after the commencement date, unless a later date is established by the Bureau of TennCare. Subsequent payments are due no later than 25 days after the end of each calendar month.

The annual nursing home assessment is not effective until the Bureau of TennCare has provided the Tennessee Health Care Association written notice that includes a determination from the Centers for Medicare and Medicaid Services (CMS) that the annual assessment is a permissible source of revenue that shall not adversely affect the amount of federal financial participation in

the program and has provided evidence that an acuity-based reimbursement methodology for nursing facility care developed in consultation with the Tennessee Health Care Association.

Requires the Bureau of TennCare, upon the enactment of the assessment, to make increased payments to nursing care facilities for FY14-15 as a part of a transition to a full acuity-based reimbursement system which includes a supplemental transitional payment to nursing facilities which exceeds the amount of nursing home Medicaid rates. The total amount of aggregate funds available for the supplemental payment is equal to the difference between the aggregated amount of nursing home trust fund assessments scheduled to be paid by all nursing homes during FY14-15 and the total amount of nursing home privilege tax paid by all nursing homes during FY13-14. Establishes the allocation of the supplemental transitional payments.

Creates a penalty of five percent of the amount due if any part of any assessment fee is not paid on or before the due date. An additional five percent of any unpaid balance will be added to the assessment fee on the first day of each month during which any part of any assessment fee or any prior accrued penalty remains unpaid. Authorizes the Commissioner of Health to approve an alternative payment plan as long as full payment of the assessment fee plus any penalties are made. Requires the Commissioner of Health to initiate proceedings before the Board for Licensing Health Care Facilities if a nursing facility is more than 90 days delinquent in paying any installment of the annual assessment or becomes delinquent on an approved payment plan.

The nursing home annual assessment fee shall terminate on June 30, 2015. If the Bureau of TennCare has not received the necessary approvals from CMS by July 1, 2014, the assessment fee shall be set at \$2,225 per licensed bed per year and be uniformly applied to all beds licensed on July 1, 2014.

Requires the Fiscal Review Committee to review and have oversight of the implementation of the nursing home assessment and the nursing home assessment trust fund.

Extends, from June 30, 2015 to June 30, 2017, the termination date of Tenn. Code Ann. § 71-5-1412, which requires any managed care organization (MCO) to contract with any licensed and certified nursing facility that provides Medicaid nursing facility services under the same terms and conditions as are offered to any other participating facility contracted with an MCO to provide services under the TennCare program.

Amendment 016376 makes a technical correction to the directory language in Section 1 of amendment 016044.

Amendment 016224 corrects typographical errors and makes technical corrections.

Amendment 016356 replaces references to the Department of Health with the Bureau of TennCare regarding the collection of the assessment fees, the establishment of alternate payment plans, and the issuance and collection of any penalties. Creates a mechanism for any nursing home with an outstanding balance after July 1, 2014 to transition to paying the Bureau of TennCare instead of the Department of Health without disruption to any currently approved alternate payment plan. Authorizes the Bureau of TennCare to recoup any supplemental

transitional payments and apply those amounts to reduce the unpaid balance of any assessment fees owed by a facility that has not established an approved repayment plan by August 15, 2014.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Increase State Revenue - \$24,755,200/FY14-15/Nursing Home Assessment Trust Fund

**Increase State Expenditures - \$24,755,200/FY14-15/
Nursing Home Assessment Trust Fund**

**Increase Federal Expenditures - \$46,105,500/FY14-15/
Nursing Home Assessment Trust Fund**

Other Fiscal Impact – The Governor’s FY14-15 proposed budget includes state revenue in the amount of \$82,300,000 from the annual nursing home assessment fee (nursing home bed tax). The annual nursing home assessment fee is being replaced by the proposed nursing home assessment. This revenue will still be collected under the bill as amended and will generate approximately \$153,280,364 in federal funds. Under the bill as amended, these funds will be placed in the Nursing Home Assessment Trust Fund instead of the General Fund.

Assumptions for the bill as amended:

- According to the Bureau of TennCare, the assessment on nursing homes will result in an increase in state revenue to the Nursing Home Assessment Trust Fund (NHATF) of \$107,055,200.
- The proposed FY14-15 budget includes revenue resulting from the nursing home annual assessment fee in the amount of \$82,300,000. The state revenue generated will produce federal funds in the amount of \$153,280,364 at a federal match rate of 65.065 percent. These funds will be placed in the NHATF instead of the General Fund but will continue to be spent to reimburse nursing homes.
- The bill as amended will result in an additional \$24,755,200 in state revenue (\$107,055,200 - \$82,300,000) and \$46,105,541 in federal funds that was not originally included in the Governor’s FY14-15 proposed budget.
- All revenue collected by the state, including investment earnings credited to the nursing home annual assessment fee payments, interest, and penalties paid by any nursing home, and all federal funds generated by federal matching funds relative to the nursing home assessment will be used by the Bureau of TennCare for the sole purpose of providing payments to nursing homes and use of these funds for any other purpose is prohibited.
- Any increase in expenditures incurred by the Board for Licensing Health Care Facilities will not be significant and can be accommodated within existing resources.
- Any increase in expenditures for the Bureau of TennCare to administer the administration of the assessment fee will not be significant and can be accommodated within existing resources.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

/kml